IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Writ Petition No.200 of 2001.

Date of decision:15.12.2006.

M/s.Hotel Snow View …..**Petitioner.**

Versus

Regional Provident Fund Commissioner & Anr. ……**Respondents.**

Coram:

The Hon'ble Mr.Justice Dev Darshan Sud, J.

Whether approved for reporting?[1]

For the Petitioner: **Mr.Ankush Sood, Advocate.**

For Respondents 1 &2: **Mr.D.Ghosh, Advocate.**

Dev Darshan Sud, J.(Oral).

Learned counsel for the respondents has placed on record letter No.LC-4/25/06/EPFAT-57597, dated 8.11.2006, stating that the Appellate Tribunal under the Employees Provident Fund Organization Act is functional. The Presiding Officer has been appointed on 25.9.2006.

The present writ petition was filed by the petitioner in which there was a specific allegation in paragraph-5 to the following effect:

> "That the impugned order is appealable before the Employees' Provident Funds Appellate Tribunal but unfortunately the Presiding Officer of the said

---

[1] ***Whether the reporters of Local Papers may be allowed to see the judgment?***

> Tribunal has retired on 17.01.2001 and nobody has been appointed to the said post ever since".

This position was not denied by the respondents in their reply. The petitioner had also filed CMP No.352 of 2001 praying that he be relieved of the obligation of paying money assessed from him as due and payable. On 4.4.2001, this Court passed the following order in aforesaid application :-

> "**CMP NO.352 of 2001:**
>
> Notice in the aforesaid terms.
>
> Ad interim relief against communication dated 15th March, 2001 (Annexure P-2) and also operation of the order dated 18th December, 2000 (Annexure P-1) on condition that the petitioner will pay to the respondents 50% of the amount within a period of three weeks. It is, however, clarified that the said payment will be without prejudice to the rights and contentions of the petitioner.
>
> Dasti copy on usual terms".

It is submitted by the petitioner that this order has been duly complied with.

Since the Appellate Tribunal is now functional, it is un-necessary for this Court to go into the merits of the writ petition. The petitioner is directed to file an appeal before the Appellate Tribunal constituted under the Employees' Provident Fund Organization Act within a period of four weeks

from today. The petitioner shall also move the Tribunal for interim relief and, while considering the application of the petitioner, the Tribunal will keep in view the order passed by a Division Bench of this Court in CMP No.352 of 2001 on 4.4.2001, confirmed on 26.7.2001.

No objection shall be raised with respect to the question of limitation as there was no Tribunal functional at the time when the writ petition was filed and this position was admitted by the respondents. Further the writ petition remained pending in this Court till today.

In these circumstances, it is ordered that limitation will not be a bar for the petitioner in seeking a statutory remedy under the Employees' Provident Fund Organization Act.

The writ petition is, accordingly, disposed of. There shall be no order as to costs.

December 15, 2006. **(Dev Darshan Sud)**
(aks) **Judge.**